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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JOSE JESUS GUTIERREZ VASQUEZ,) No. C-06-6664-PJH
Petitioner,)
v.)
MICHAEL CHERTOFF, Secretary of)
Homeland Security; JULIE L. MEYERS,)
Assistant Secretary for Immigration and)
Customs Enforcement; ALBERTO)
GONZALES, Attorney General; UNITED)
STATES IMMIGRATION AND)
CUSTOMS ENFORCEMENT; UNITED)
STATES DEPARTMENT OF)
HOMELAND SECURITY,)
Respondents.)

**STIPULATION TO A THIRD EXTENSION
OF DEADLINE FOR FILING A RESPONSE
TO THE COURT'S ORDER TO SHOW
CAUSE**

The petitioner, by and through his attorneys of record, and respondents, by and through their attorneys of record, hereby stipulate, subject to the approval of the Court, to a third extension of time within which the respondents may file a response to the Order to Show Cause (OSC) issued by this Court on April 24, 2007.

(1) The petitioner filed a petition for writ of habeas corpus with this Court on October 26, 2006, alleging that he received ineffective assistance of counsel in connection with the filing and

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OSC

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1 prosecution of a petition for review in the United States Court of Appeals for the Ninth Circuit.

2 *See Gutierrez-Vasquez v. Gonzales*, Appeal No. 04-73084.

3 (2) This Court issued an OSC on April 24, 2007, directing the government to file a brief
4 within 30 days addressing whether this Court has jurisdiction over the habeas petition in light of
5 the REAL ID Act of 2005.

6 (3) The parties have been exploring a means of resolving this habeas petition, as well as the
7 petition for review that is pending at the Ninth Circuit.

8 (4) On May 3, 2007, the government filed an unopposed motion with the Ninth Circuit to
9 suspend the briefing schedule in that case until at least July 9, 2007.

10 (5) On May 9, 2007, this Court granted the parties stipulation to extend the deadline for
11 responding to this Court's OSC to August 10, 2007.

12 (6) On May 17, 2007, the Ninth Circuit vacated the briefing schedule and has asked counsel
13 for the government to report on the status of the case on or before January 9, 2008.

14 (7) On October 26, 2007, the petitioner and the Chief Counsel's Office for the United States
15 Immigration and Customs Enforcement filed a motion to reopen with the Board of Immigration
16 Appeals (BIA).

17 (8) The motion to reopen is currently pending with the BIA and it is anticipated that the parties
18 will know within a few months whether this case may be resolved without further action by this
19 Court.

20 Accordingly, the parties respectfully ask this Court to extend the deadline for the government
21 to file its brief in response to the Court's OSC to February 8, 2008.

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28 STIPULATION TO A THIRD EXTENSION OF DEADLINE FOR FILING RESPONSE TO
OSC

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2 Date: November 9, 2007
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Respectfully submitted,

4 SCOTT N. SCHOOLS
United States Attorney
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6 /s/
7 EDWARD A. OLSEN
Assistant United States Attorney
Attorneys for Respondents
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9 Date: November 9, 2007
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11 /s/
12 JENNIFER C. CHANG
13 AMERICAN CIVIL LIBERTIES UNION
14 FOUNDATION IMMIGRANTS' RIGHTS PROJECT
15 Attorneys for Petitioner
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17 Pursuant to stipulation, IT IS SO ORDERED.
18 Date: November 15, 2007
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